

§ 360.5

49 CFR Ch. III (10–1–12 Edition)

Type of Proceeding		Fee
(8)	An application involving the merger, transfer, or lease of the operating rights of motor passenger and property carriers, property brokers, and household goods freight forwarders under 49 U.S.C. 10321 and 10926.	300
(9)–(49)	[Reserved]	
Part II: Insurance:		
(50)	(i) An application for original qualification as self-insurer for bodily injury and property damage insurance (BI&PD).	4,200
	(ii) An application for original qualification as self-insurer for cargo insurance.	420
(51)	A service fee for insurer, surety, or self-insurer accepted certificate of insurance, surety bond, and other instrument submitted in lieu of a broker surety bond.	\$10 per accepted certificate, surety bond or other instrument submitted in lieu of a broker surety bond.
(52)	A petition for reinstatement of revoked operating authority	80
(53)–(79)	[Reserved].	
Part III: Services:		
(80)	Request for service or pleading list for proceedings	13 per list
(81)	Faxed copies of operating authority to applicants or their representatives who did not receive a served copy.	5

(g) *Returned check policy.* (1) If a check submitted to the FMCSA for a filing or service fee is dishonored by a bank or financial institution on which it is drawn, the FMCSA will notify the person who submitted the check that:

(i) All work will be suspended on the filing or proceeding, until the check is made good;

(ii) A returned check charge of \$6.00 and any bank charges incurred by the FMCSA as a result of the dishonored check must be submitted with the filing fee which is outstanding; and

(iii) If payment is not made within the time specified by the FMCSA, the proceeding will be dismissed or the filing may be rejected.

(2) If a person repeatedly submits dishonored checks to the FMCSA for filing fees, the FMCSA may notify the person that all future filing fees must be submitted in the form of a certified or cashier's check, money order, or credit card.

[64 FR 7137, Feb. 12, 1999, as amended at 67 FR 61820, Oct. 2, 2002]

§ 360.5 Updating user fees.

(a) *Update.* Each fee established in this part may be updated in accordance with this section as deemed necessary by the FMCSA.

(b) *Publication and effective dates.* Updated fees shall be published in the FEDERAL REGISTER and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a fee is es-

tablished shall pay the fee in effect at the time of the filing.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. Cost components shall be updated as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of FMCSA employees. Base level direct labor costs are direct labor costs determined by the cost study in *Regulations Governing Fees For Service*, 1 I.C.C. 2d 60 (1984), or subsequent cost studies. The base period for measuring changes shall be April 1984 or the year of the last cost study.

(2) Operations overhead shall be developed each year on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activity. Actual updating of operations overhead will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed each year on the basis of current levels costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the office directly associated with user fee activity. Actual updating of office general and administrative costs will be accomplished by applying the current

percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) FMCSA general and administrative costs shall be developed each year on the basis of current level costs; i.e., dividing actual FMCSA general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of FMCSA general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the FEDERAL REGISTER or FMCSA Register.

(This rounding procedures excludes copying, printing and search fees.)

(e) *Rounding of updated fees.* Updated fees shall be rounded in the following manner:

(1) Fees between \$1 and \$30 will be rounded to the nearest \$1;

(2) Fees between \$30 and \$100 will be rounded to the nearest \$10;

(3) Fees between \$100 and \$999 will be rounded to the nearest \$50; and

(4) Fees above \$1,000 will be rounded to the nearest \$100.

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

Subpart A—How To Apply for Operating Authority

Sec.

365.101 Applications governed by these rules.

365.103 Modified procedure.

365.105 Starting the application process: Form OP-1.

365.107 Types of applications.

365.109 FMCSA review of the application.

365.111 Appeals to rejections of the application.

365.113 Changing the request for authority or filing supplementary evidence after the application is filed.

365.115 After publication in the FMCSA Register.

365.117 Obtaining a copy of the application.

365.119 Opposed applications.

365.121 Filing a reply statement.

365.123 Applicant withdrawal.

Subpart B—How To Oppose Requests for Authority

365.201 Definitions.

365.203 Time for filing.

365.205 Contents of the protest.

365.207 Withdrawal.

Subpart C—General Rules Governing the Application Process

365.301 Applicable rules.

365.303 Contacting another party.

365.305 Serving copies of pleadings.

365.307 Replies to motions.

365.309 FAX filings.

Subpart D—Transfer of Operating Rights Under 49 U.S.C. 10926

365.401 Scope of rules.

365.403 Definitions.

365.405 Applications.

365.407 Notice.

365.409 FMCSA action and criteria for approval.

365.411 Responsive pleadings.

365.413 Procedures for changing the name or business form of a motor carrier, freight forwarder, or property broker.

Subpart E—Special Rules for Certain Mexico-Domiciled Carriers

365.501 Scope of rules.

365.503 Application.

365.505 Re-registration and fee waiver for certain applicants.

365.507 FMCSA action on the application.

365.509 Requirement to notify FMCSA of change in applicant information.

365.511 Requirement for CVSA inspection of vehicles during first three consecutive years of permanent operating authority.

APPENDIX A TO SUBPART E OF PART 365—EXPLANATION OF PRE-AUTHORIZATION SAFETY AUDIT EVALUATION CRITERIA FOR MEXICO-DOMICILED MOTOR CARRIERS

AUTHORITY: 5 U.S.C. 553 and 559; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.87.

SOURCE: 59 FR 63728, Dec. 9, 1994, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

EDITORIAL NOTE: Nomenclature changes to part 365 appear at 66 FR 49870, Oct. 1, 2001.